



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,243	05/09/2005	Colin Brown	102790-121 (30063 US/2)	2664
27389 7590 01/12/2009 NORRIS, MCLAUGHLIN & MARCUS 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022			EXAMINER BUSHEY, CHARLES S	
			ART UNIT 1797	PAPER NUMBER
			MAIL DATE 01/12/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/534,243	<b>Applicant(s)</b> BROWN ET AL.	
	<b>Examiner</b> Scott Bushey	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6,9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6,9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 6, and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 6, "having an axis or rotation" does not make sense.

Furthermore, on the penultimate line of claim 1, "includes" should apparently be replaced by --including--.

In claim 6, line 6, "axially" should apparently be replaced by --axial-- for clarity.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 4, 6, 9, and 10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jane et al '615 (Fig. 4; col. 4, lines 11-30).

Jane et al '615, as previously applied clearly anticipates a vertically aligned wick (73) within a reservoir (66), wherein air flow through the device enters through inlets (38) in a horizontal direction, passes through the headspace of exposed wick, enters separate manifold (45) in a horizontal direction under the influence of blower (41), and

Art Unit: 1797

finally exits the blower and the separate manifold in a vertical direction through a plurality of vents within directing baffles (39), which are located within the separate manifold at the outlet end thereof. It is noted that applicant's claims certainly do not preclude the blower being located within the so-called "separate manifold". It is also noted that the instant specification states at page 4, lines 30-31, that the "manifold may be merely a chamber with an opening".

### ***Response to Arguments***

5. Applicant's arguments filed November 20, 2008 have been fully considered but they are not persuasive. For the reasons given in the rejection statement above, Jane et al '615 has been shown to clearly anticipate the invention as currently claimed. With regard to applicant's claimed invention, applicant should note that the claims are considered in light of the specification, however, limitations from the specification are not read into the claims, where they don't specifically appear in the claim language. With regard to the blower of Jane et al '615 being axially aligned with the wick, applicant should note that the claims as currently recited do not require that the rotational axis of the blower be axially aligned with the wick. Clearly, the blower body, which is arranged perpendicular to the drive shaft of the blower is in axial alignment with the wick. Furthermore, with regard to the wick extending from the reservoir, as stated in the previous Office action, and again hereinabove, the wick (73) extends axially from the reservoir (66) as shown in Fig. 4, and discussed specifically at col. 4, lines 8, 12, 18, and 19. With regard to the "separate manifold", applicant should review the discussion in the rejection statement above.

***Allowable Subject Matter***

6. In an effort to forward prosecution of the instant application toward a positive resolution for applicant the following changes to the claim language are suggested, which are considered to overcome the prior art of record relative to patentability.

In claim 1, line 4, after “wick”, insert --having a longitudinal axis--; line 6, replace “axis or rotation and being axially aligned with the wick” with --axis of rotation, said axis of rotation being axially aligned with the longitudinal axis of the wick--; line 8, between “disposed” and “above”, insert --downstream of the blower and--; line 9, replace “includes” with --including--.

In claim 3, line 7, after “wick” insert --and downstream of a blower--; line 9, “within the separate manifold” should be replaced by --within an internal cavity of the separate manifold and being upstream of the plurality of vents--; and line 10, “a blower” should be replaced by --the blower--.

In claim 6, line 6, “axially” should be replaced by --axial--; line 7, after “wick,” and before “and”, --providing internal baffles within the separate manifold upstream from the plurality of vents,-- should be inserted; and line 8, “to pass through the headspace” should be replaced by --to pass sequentially through the headspace, around the internal baffles,--.

***Conclusion***

7. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 1797

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is 571 272-1153. The examiner can normally be reached on M-Th 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Art Unit: 1797

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Scott Bushey  
Primary Examiner  
Art Unit 1797

/S. B./  
1-5-09

/Scott Bushey/  
Primary Examiner, Art Unit 1797

<div>Application Number</div> <div></div>	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/534,243	BROWN ET AL.	
	Examiner	Art Unit	
	Scott Bushey	1797	